

ANIMALS PROTECTION ACT 1890.

An Act to consolidate the Law relating to the Protection of Animals. 54 VICTORIA,
No. 1064.

[10th July, 1890.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Animals Protection Act 1890*, and shall come into operation on the first day of August One thousand eight hundred and ninety, and shall be read and construed as one with Part II. of the *Police Offences Act 1890*. Short title commencement and construction.

2. The Act mentioned in the Schedule to this Act to the extent to which the same is thereby expressed to be repealed is hereby repealed. Provided that such repeal shall not affect any regulation made under the said Act before the commencement of this Act. Repeal.
Schedule.

3. The term "cruelty" in this Act shall mean the intentional infliction upon any animal of pain that in its kind or its degree or its object or its circumstances is unreasonable. Definition of "cruelty."
Ib. s. 3.

4. No person shall do any act or observe any forbearance towards any animal which act or forbearance involves cruelty. Prohibition of cruelty.
Ib. s. 4.

5. No person shall use any animal at any time or in any place or in any manner or to any extent or for any purpose or in any circumstances which involves or involve cruelty. Cruel use of animal forbidden.
Ib. s. 5.

6. No person shall drive or carry or kill any animal in any manner or in any position or in any circumstances which involves or involve cruelty. Cruel transport or death forbidden.
Ib. s. 6.

7. No person who has the possession or the custody of any animal which is confined or otherwise unable to provide for itself shall omit to provide such animal so long as it remains so confined Captive animal to be cared for.
Ib. s. 7.

"The Protection of Animals Act 1891." in his possession or custody with proper and sufficient food drink and shelter.^(a)

Places for baiting animals forbidden.
Ib. s. 8.

8. No person shall keep or use any place for the purpose of causing to fight or baiting or otherwise maltreating any animal or shall act in the management of any such place.

Cruel acts.
Ib. s. 9.

9. The following acts when done to any animal shall be deemed to involve cruelty (that is to say)—

- (a) Over-riding or over-driving or over-working; or
- (b) Over-loading or driving when over-loaded; or
- (c) Riding or driving or employing or transporting any animal that is unfit for any such use; or
- (d) Ill-treating or injuring or tormenting or torturing; or
- (e) Doing in circumstances that amount to cruelty any of the following acts (that is to say) beating wounding mutilating killing or causing unnecessary pain;
- (f) Causing or procuring to be done any of the acts aforesaid or permitting any such act to be done to any animal of which the offender has the custody or control:

Provided that the acts specified in this section shall be deemed to be mentioned by way of example only and shall not be construed to restrict in any way the generality of any prohibition herein contained, or to limit the same to cases resembling all or any of the cases specially mentioned.

Penalty for offences.
Ib. s. 10.

10. If any person offend against any provision hereinbefore contained he shall on conviction before justices be liable to a penalty for the first offence not exceeding Ten pounds or to imprisonment with or without hard labour for a term not exceeding one month, and for the second offence to a penalty not exceeding Twenty pounds or to imprisonment with or without hard labour for a term not exceeding two months, and for the third and every subsequent offence to a penalty not exceeding Fifty pounds or to imprisonment with or without hard labour for a term not exceeding six months.

Where any such offender is not the owner of the animal if by such offence he cause any damage to such animal or to any person or property he shall in addition to such punishment make compensation to the owner of the animal or to the party damaged, and the justices by or before whom the offender is convicted shall determine the amount of compensation.

Parties to offences.
Ib. s. 11.

11. Every person shall be deemed to be guilty of an offence under this Act—

- (a) Who actually commits such offence; or
- (b) Who aids or abets any person in the commission thereof; or
- (c) Who directly or indirectly counsels or procures any person to commit such offence; or

(a) In *Reg. v. Newell, ex parte Brundell*, 13 V.L.R., 548 the defendant was charged under this section with having omitted to provide proper and sufficient shelter for his cattle. The evidence showed that he had kept cattle two days without any shelter in a yard which was in a wet and muddy

state. *Held*, that cruelty was not an element in the offence, and that the state of the yard was a fact from which the justices might conclude that shelter was required, and the omission to provide such shelter was an offence within the meaning of this section.

- (d) Who knowingly permits such offence to be committed in the case of any animal or any place under his control. "The Protection of Animals Act 1881."

12. Except as hereinafter provided nothing herein contained shall apply to any act done in any of the following cases— Exceptions. Ib. s. 12.

- (a) In the extermination of rabbits foxes wild dogs or vermin; or
- (b) In the hunting snaring trapping shooting or taking of any animal not in a domestic state; or
- (c) In any experiment or vivisection performed upon any animal by any legally qualified medical or veterinary practitioner for the purposes of scientific investigation: Provided that the Governor in Council may from time to time make and alter regulations for the registrations of those practitioners who desire to perform such experiments or vivisection and for the humane conduct of their operations.

13. The exemption contained in the next preceding section shall not take effect— Limitations of exceptions. Ib. s. 13.

- (a) In any case of cruelty; or
- (b) In any case of vivisection or other experiment wherein the following conditions are neglected (that is to say)—
- (i) The operation shall be performed in accordance with the regulations of the Governor in Council as aforesaid; and
- (ii) The animal subject to the operation shall during the whole time thereof be so under the influence of some anæsthetic as to be insensible to pain; and
- (iii) Where the animal has in the course of the operation been so injured that its recovery would involve serious suffering, it shall be destroyed while still insensible.

14. In case any animal shall at any time be impounded or confined in any slaughteryard pen cage hutch pound or receptacle of the like nature and shall continue confined without fit and sufficient food and water for more than twenty-four consecutive hours, or in the case of ruminants for more than thirty-six hours, it shall and may be lawful for any person whomsoever to enter into and upon any slaughteryard or premises or any pound or other receptacle of the like nature in which any such animal shall be so confined and to supply such animal with fit and sufficient food and water during so long a time as such animal shall remain and continue confined as aforesaid without being liable to any action of trespass or other proceeding by any person whomsoever for or by reason of such entry for the purposes aforesaid and the reasonable cost of such food and water shall be paid by the owner of such animal to the person who shall have supplied the same and the said cost may be recovered in a summary way before any two justices. Power to private persons to provide food for animals in confinement. Ib. s. 14.

15. Any animal found abandoned or diseased injured or disabled to such an extent that its existence involves continued suffering may be destroyed upon the authority of any two justices whether such animal shall have been the cause of a prosecution or not. Destruction of suffering animals. Ib. s. 15.

"The Protection
of Animals Act
1881."

Power to detain
animal or vehicle
as security for
penalty &c.
Id. s. 16.

16. Whenever any person having charge of any vehicle or animal and being also the owner thereof is taken into custody for any cruelty to such animal the member of the police force making the arrest may take charge of such vehicle or animal and deposit the same in some place of safe custody as a security for the payment of any penalty to which such person may become liable and of any expenses which may have been or may be necessarily incurred for taking charge of and keeping the same.

Any justice before whom the case is heard may order such vehicle or such animal to be sold for the purpose of satisfying such penalty and reasonable expenses in default of payment thereof in like manner as if the same had been subject to be and had been distrained for the payment of such penalty and expenses.

SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
45 Vict. No. 712 ...	"The Protection of Animals Act "1881"	The whole.

APOTHECARIES.

[See Medical Act 1890.]

APPRENTICES.

[See Master and Apprentice Act 1890.]

ARBITRATION.

[See Supreme Court Act 1890.]

ASYLUM.

[See Hospitals and Charities Act 1890; Lunacy Act 1890.]